

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

LORENZO GUARINO,)	
Plaintiff)	
)	
V.)	
)	
R.W. GRANGER & SONS, INC.,)	
Defendant/)	
Third Party Plaintiff)	CIVIL NO. 04-10246
)	
V.)	
)	
SCAVONE C & M)	
CONSTRUCTION CO., INC.,)	
Third Party Defendant)	

MOTION TO IMPLEAD (ASSENTED TO)

The Defendant, R.W. Granger & Sons, Inc., in the above entitled action moves for leave, as Third Party Plaintiff, to cause to be served upon Fenestration Architectural Products, Inc. a Third Party Complaint, the original of which is attached hereto.

1. This is a claim for personal injuries allegedly suffered by plaintiff, Lorenzo Guarino, on or about February 5, 2002 while working at a construction site at the Old Rochester High School, Marion Massachusetts.
2. The defendant/moving party, R.W. Granger & Sons, Inc. was the general contractor for Old Rochester High School renovation.
3. At the time of his injury the plaintiff was employed by Fenestration Architectural Products, Inc.
4. Fenestration Architectural Products, Inc. was a sub-contractor to R.W. Granger & Sons, Inc providing services for the project pursuant to a written sub-contract.
5. Pursuant to the provisions of the sub-contract, Fenestration Architectural Products, Inc. was required to indemnify and defend R.W. Granger & Sons, Inc. for any damages arising from its act or omissions.

6. The discovery conducted thusfar has revealed that the plaintiff was negligent in his actions leading up to his injury.
7. As the result of the plaintiff's negligence, his employer, Fenestration Architectural Products, Inc., is contractually required to indemnify and defend R.W. Granger & Sons, Inc.
8. The allowance of this motion will not prejudice any party and the addition of the plaintiff employer as a party defendant will serve to enhance the possibility of a resolution of the case without the need for trial.

Wherefore, defendant, R.W. Granger & Sons, Inc., respectfully moves that this court allow it to file a Third Party Complaint against Fenestration Architectural Products, Inc. together with such other further and different relief as this court deems just and proper. (A copy of the proposed Third Party Complaint has been attached hereto).

By its attorney,

/s/ Patrick M. McCormack
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ASSENTED TO:

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/s/ Mark B. Lavoie (by PMM) ____
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